



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-262008

October 23, 1996

Mr. John F. Best
Chief, Finance and Accounting Division
Directorate of Resource Management
Department of the Army
U.S. Army Corps of Engineers

Dear Mr. Best:

In your letter of July 7, 1995, you forwarded a request from L. C. Williamsen, Finance and Accounting Officer, Corps of Engineers, Omaha District, for an advance decision on the propriety of paying a corporate entry fee for the American Lung Association of Nebraska's "Omaha Corporate Cup Run." For the reasons indicated below, the fee should not be paid.

The "Omaha Corporate Cup Run" is an annual fund-raising event run by the American Lung Association of Nebraska. Local companies may participate in the event's Corporate Division by sponsoring teams of runners. Individuals, whose employers are not participating, may enter the event's Open Division. Participating companies pay an entry fee based on their total number of employees plus \$2 for each participating runner. Individuals entering the Open Division pay an entry fee of \$15. Prizes are awarded to teams and individuals in the event's Corporate Division, and to individuals in the Open Division. Further, everybody finishing the race receives a "Omaha Corporate Cup Run" mug.

The "Wellness Coordinator" for the Corps of Engineers Omaha District submitted a request to the Finance and Accounting Branch for payment of \$595.00, representing the Corps' entry fee for the 1995 Omaha Corporate Cup Run. In support of the request the coordinator stated:

"The entry fee is requested for support of the U.S. Army Corps of Engineers health promotion program, 'Fit To Win', and support of employee participation in the Corporate Cup Run."

In his request for an advance decision, the finance and accounting officer stated:

"In our situation, the payment has been made in the name of the government, awards are presented to the winning corporation or government agency, and the district has determined that the event does contribute to the support of our health and fitness program under 5 U.S.C. 7901. Conversely, the run may or may not be considered an individual competitive event which could possibly make it a personal expense."

In 73 Comp. Gen. 169 (1994), the Comptroller General considered a similar request involving the use of appropriated funds to pay registration fees for employees participating in competitive athletic events, including a "Corporate Challenge" event. In that decision, the Comptroller General determined that appropriated funds could not be used to pay for such registration fees. Specifically, the opinion stated:

"The competitive events described in the Director's letter are not an essential part of a 'physical fitness program' as that term is commonly used to justify the expenditure of taxpayer funds under 5 U.S.C. § 7901. Although the external competitive opportunities may well promote physical fitness and well-being, so would any number of other competitive recreational activities. In our opinion, these activities are generally personal, rather than official, and their costs should be borne by the participating employees, not by the taxpayers."

73 Comp. Gen. at 170.

In our view, the facts in your submission do not differ significantly from the facts in 73 Comp. Gen. 169. We do not view participation in the Omaha Corporate Cup Run to be an essential part of a physical fitness program authorized by 5 U.S.C. § 7901. The fact that employees will participate in the event as members of a team, rather than as individuals, does not change our opinion that competitive athletic events are essentially personal, not official, activities.

The finance and accounting officer suggests that because entry in the run is in the name of the government and because prizes will be awarded to corporate sponsors of the winning teams the entry fee can be justified as agency participation in a contest in support of its mission. In B-172556, December 29, 1971, the Comptroller General determined that the National Oceanic and Atmospheric Administration (NOAA) was authorized to pay entry fees for agency publications in an annual government publications contest. In that case, NOAA had justified the expense as in furtherance of its statutory authority to publish materials relating to weather and related matters. Specifically, the NOAA Administrator argued:

"Fulfillment of NOAA's publication responsibilities requires continuous review and evaluation of the quality and effectiveness of the writings through which public dissemination of information is effected. Participation in comparative evaluation sponsored by a national organization from which no personal awards or tangible benefit to government employees are obtained, has the effect of inspiring authors and government publication specialists to write more effectively and publish materials of higher quality. . . . "

In approving the use of appropriated funds to pay the contest entry fees the Comptroller General said:

"In the instant case, in view of the fact that prizes are, in fact, awarded to the agency involved and in view of the administrative determination, and the justification therefor, that entry into the contest is in the best interest of the agency and, therefore, an expenditure which can be considered as necessary to carry out the agency's appropriations, we will not object to the payment of the cost of entering NOAA's publication in the government publications contest of the Federal Editor's Association. Whether appropriated funds may be used to enter other contests will, of course, depend on the nature of the contest, the nature of the prizes and to whom they are awarded, and on the administrative justification for determining that the expenses of entering the contest are necessarily incurred in order to carry out the specific and general functions of the agency."

(Emphasis added.)

Clearly, the Omaha Corporate Cup Run is not the type of "contest" that B-172556 dealt with. Further, although the corporate sponsor of a winning team receives an award, the members of the team also receive awards. Therefore, the benefit is not principally to the agency. Most significant, however, is the absence of any justification to show that participation of employees in the run--a competitive athletic event--in any way supports the mission of the Corps.

We conclude that the corporate entry fee in the Omaha Corporate Cup Run is not a proper use of appropriated funds and should not be paid.

Sincerely yours,

Gary L. Kepplinger
Associate General Counsel

B-262008

October 23, 1996

DIGEST

The U.S. Army Corps of Engineers may not use appropriated funds to pay a corporate entrance fee for its employees to compete in the Omaha Corporate Cup Run, sponsored by the American Lung Association of Nebraska. Participation by employees in a competitive athletic event is not an essential part of an authorized physical fitness program; it is rather a personal activity on the part of the employee. Further, it may not be justified as agency enrollment in a contest because an athletic event is not related to the mission of the agency.